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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,555	10/24/2003	Jerome S. Veith	659-1148	3611

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/693,555	Applicant(s) VEITH, JEROME S.	
	Examiner Melanie J. Hand	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>various(3)</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statements (IDS) submitted on February 24, 2004, December 6, 2004 and December 13, 2004 were filed after the mailing date of the Application on October 24, 2003. The submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lantz et al (U.S. Patent No. 5,836,930).

With respect to **Claims 1,2,3**: Lantz teaches diaper 10 with front waist portion 12 and rear waist portion 14 defining a length 90 therebetween. (Fig. 1) Lantz teaches absorbent structure 32 with retention portion 48 that is comprised of superabsorbent material. (Col. 13, lines 58-60). Absorbent structure 32 is an insert with longitudinally opposed edges defining length 94. Lantz teaches that length 94 is no less than 40% of

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length 90. (Col. 11, lines 10-15). Lantz teaches that at least 55% of length 94 of absorbent structure 32 is located in a front half section of diaper 10. (Col. 4, lines 13-16) Lantz teaches that retention portion 48 defines the boundaries of absorbent structure 32 therefore Examiner is concluding that there is no absorbent material present outside of said retention portion or said absorbent structure.

With respect to **Claims 4,13,19**: Lantz teaches a SAP particle to hydrophilic fiber ratio for retention portion 48 of not less than about 25:75 by weight. (Col. 14, lines 28-32)

With respect to **Claim 5**: Lantz teaches a liquid uptake of 25-40 g/g after 60 minutes under load. (Col. 14, lines 1-6) Lantz teaches a load of 0.3 psi, or 2.06 kPa, by incorporating an absorbency-under-load (AUL) determination method taught in EP 339,461 A1, published November 2,1998, which is roughly equivalent to the pressure exerted on a sample that is subjected to the centrifuge method set forth by applicant, therefore the results taught by Lantz are concluded herein to be relevant.

With respect to **Claim 6**: Lantz teaches that surge management layer 46 adjacent absorbent structure 32, said surge management layer 46 has a density of absorbent material that is not greater than 0.1 g/cc. Examiner is concluding that, given a surge layer's function (i.e. absorb and transfer but prevent excess exudates from reaching structure 32) and position (adjacent structure 32), the density of absorbent material in retention portion 48 must be at least 0.1 g/cc.

With respect to **Claim 7**: Lantz teaches that waist portions 12 and 14 are comprised of material from outer cover 30 which also provides a front panel and back panel, as well as crotch region 16 comprised of edges longitudinally spaced from both waist portions. (Fig. 9). Absorbent structure 32 is disposed longitudinally between said front and rear panels and, as can best be seen from Fig. 7, has ends 60 spaced longitudinally from one another (Col. 10, line 41) and since absorbent structure 32 is adjacent backsheet 30 which forms said panels, absorbent structure 32 overlies and is connected to both the front and rear panels since it is located in the crotch region 16 and does not entirely lie on one side of the diaper's transverse centerline.

With respect to **Claims 8,14,21**: Lantz teaches that the backsheet 30 is comprised of a nonwoven material. (Col. 6, lines 28-30, 49-51)

With respect to **Claims 9,15,22**: Lantz teaches a flexible liquid impermeable material for backsheet 30. (Col. 6, lines 27-32)

With respect to **Claims 10,16**: Lantz teaches tape tabs 36 configured for securing front and rear waistband portions 12 and 14 about the wearer. (Col. 4, lines 17-19)

With respect to **Claims 11,12**: Please see the rejections of Claims 1 and 7 as Claims 11 and 12 are rejected for all of the same reasons stated with respect to Claims 1 and 7.

With respect to **Claims 17,18**: Lantz teaches providing diaper 10 with front waist portion 12 and rear waist portion 14 defining a length 90 therebetween. (Fig. 1) Lantz teaches fixedly securing absorbent structure 32 with retention portion 48 that is comprised of superabsorbent material between topsheet 28 and backsheet 30 (Col. 13, lines 58-60) Absorbent structure 32 is an insert with longitudinally opposed edges defining length 94. Lantz teaches that length 94 is no less than 40% of length 90. (Col. 11, lines 10-15). Lantz teaches that at least 55% of length 94 of absorbent structure 32 is located in a front half section of diaper 10. (Col. 4, lines 13-16) Lantz teaches that retention portion 48 defines the boundaries of absorbent structure 32 therefore Examiner is concluding that there is no absorbent material present outside of said retention portion or said absorbent structure.

With respect to **Claim 20**: Lantz teaches that waist portions 12 and 14 are comprised of material from outer cover 30 which also provides a front panel and back panel, as well as crotch region 16 comprised of edges longitudinally spaced from both waist portions. (Fig. 9). Absorbent structure 32 is disposed longitudinally between said front and rear panels and, as can best be seen from Fig. 7, has ends 60 spaced longitudinally from one another (Col. 10, line 41) and since absorbent structure 32 is fixed securely adjacent backsheet 30 which forms said panels, absorbent structure 32 will then overlie and be connected to both the front and rear panels since it is located in the crotch region 16 and does not entirely lie on one side of the diaper's transverse centerline.

With respect to **Claim 23**: Lantz teaches securing front and rear waistband portions 12 and 14 about the wearer by using tape tabs 36. (Col. 4, lines 17-19)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER



Melanie J Hand
Examiner
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